

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

IN RE	)	Chapter 11
	)	
W.R. GRACE & CO., et al.,	)	Case No. 01-01139 (JKF)
	)	(Jointly Administered)
Debtors.	)	
<hr/>		<b>RE: DI 26527, 26597</b>

**ANDERSON MEMORIAL HOSPITAL'S STATEMENT OF ISSUES  
AND DESIGNATION OF RECORD ON APPEAL**

Anderson Memorial Hospital ("Anderson"), through undersigned counsel, submits this statement of issues and designation of record on appeal pursuant to Fed. R. Bankr. P. 8006 and the District Court's *Order Regarding Appeals of Confirmation Order* [D.I. 26527] with respect to its Notice of Appeal filed on March 18, 2011 [D.I. 26597] to the United States District Court for the District of Delaware of several Orders of the Bankruptcy Court.<sup>1</sup>

Inclusion of an issue in this designation is not intended as and should not be construed as a waiver of the position that recommended findings of fact or conclusions of law contained in the Orders are matters that are subject to appeal rather than objection under Fed. R. Bankr. P. 9033 that would be subject to *de novo* review. Anderson reserves all its rights, as provided in the District Court's February 23, 2011 Order, to include all Rule 9033 objections in its appellate brief.

**STATEMENT OF ISSUES**

1. Did the Bankruptcy Court err in determining that the Joint Plan should be confirmed?

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<sup>1</sup> Anderson Memorial Hospital appeals each and every part of the Orders, including all non-final orders and rulings that produced the Orders, whether or not explicitly merged in the Orders.

2. Did the Bankruptcy Court err in determining that the Joint Plan complies with the applicable provisions of Title 11 and that the Plan Proponents complied with the applicable provisions of Title 11?

3. Did the Bankruptcy Court err in determining that the Joint Plan was proposed in good faith?

4. Did the Bankruptcy Court err in determining that the Joint Plan adequately provided for equality of treatment among creditors with respect to Anderson's claims?

5. Did the Bankruptcy Court err in determining that the Joint Plan was feasible?

6. Did the Bankruptcy Court err in determining that the requirements for the issuance of an injunction in accordance with 11 U.S.C. § 524(g) were satisfied?

7. Did the Bankruptcy Court err in determining that Class 7A claims under the Joint Plan were unimpaired?

8. Did the Bankruptcy Court err in determining that claimants in all required classes had voted to accept the Joint Plan?

9. Did the Bankruptcy Court err in determining that all impaired classes of claims or interests had accepted the Joint Plan or would receive or retain under the Joint Plan on account of such claim or interest property of a value, on the effective date of the Joint Plan, that is not less than the amount that such holder would so receive or retain if the debtor were liquidated under Chapter 7 of the Bankruptcy Code on such date?

10. Did the Bankruptcy Court err in approving releases of non-debtor third parties, including the debtors' professionals and the professionals of other interested parties, contained in the Joint Plan?

11. Did the Bankruptcy Court err in determining that adequate notice of the claims bar date was provided to all prospective property damage claimants?

12. Did the Bankruptcy Court err in determining the evidence that Anderson would be permitted to present in connection with confirmation of the Joint Plan and all non-final orders and rulings that led to the Orders?

13. Did the Bankruptcy Court err in failing to consider the evidence that Anderson did present in connection with confirmation of the Joint Plan and all non-final orders and rulings that led to the Orders?

14. Did the Bankruptcy Court err in precluding Anderson from obtaining permissible discovery on matters relating to the administration of the bankruptcy case and confirmation of the Joint Plan?

15. Did the Bankruptcy Court err in failing to rule on admissibility of evidence offered or proffered by Anderson in connection with confirmation of the Joint Plan?

### **DESIGNATION OF RECORD<sup>2</sup>**

As the Plan Proponents have done, Anderson designates, and asks the Court to take judicial notice of, the entire bankruptcy court docket, Case No. 01-1139, filed with the Bankruptcy Court for the District of Delaware.

<b><u>Ex. No.</u></b>	<b><u>Description</u></b>
AMH-4	EPA Study of Asbestos-Containing Materials in Public Buildings – A Report to Congress
AMH-5	Final Report Assessing Asbestos Exposure in Public Building EPA No. 560-5-88-002

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<sup>2</sup> Anderson has been required to file a separate designation in addition to the Joint Designation directed by the Court as a result of the Plan Proponents' refusal to include in the Joint Designation all of the trial exhibits offered by Anderson.

<b><u>Ex. No.</u></b>	<b><u>Description</u></b>
AMH-6	Letter from Charles Powers to The Docket Officer re Asbestos in Public and Commercial Buildings: Supplementary Analyses
AMH-11	Asbestos Abatement Magazine re: For Whose Safety: The Safe Buildings Alliance
AMH-12	Managing Asbestos in Place – A Building Owner’s Guide to Operations and Maintenance Programs for Asbestos Containing Materials
AMH-13	Authentication of Joseph S. Carra
AMH-15	Authentication of Mark A. Greenwood
AMH-19	Letter from Robert McNelly to Scott Schneider re: Authentication of David Kling
AMH-20	Environmental Protection Agency – Ambient Air Monitoring Reference and Equivalent Methods: Receipt of Application for a Reference Method Determination
AMH-27	Letter from Linda Fisher re: hazardous asbestos
AMH-28	Federal Register Article re: Environmental Protection Agency – Asbestos NESHAP Clarification of Intent
AMH-29A	Plaintiff’s Motion to Certify a Class Action with attached Plaintiff’s Memorandum in Support of Motion to Certify a Class Action (from Anderson Memorial South Carolina State Court case)
AMH-29B	Plaintiff’s Reply in Support of Motion to Certify A Class Action with exhibits (from Anderson Memorial South Carolina State Court case)
AMH-29C	Plaintiff’s Pre-Hearing Memorandum on Class Certification (from Anderson Memorial South Carolina State Court case)
AMH-29D	Affidavit of Marion C. Fairey, Jr. (from Anderson Memorial South Carolina State Court case)
AMH-30A	Defendants’ Memorandum in Opposition to Class Certification (from Anderson Memorial South Carolina State Court case)
AMH-30B	Certain Defendants’ Consolidated Brief in Opposition to Class Certification (from Anderson Memorial South Carolina State Court case)
AMH-30C	Certain Defendants’ Post-Hearing Brief in Opposition to Class Certification (from Anderson Memorial South Carolina State Court case)
AMH-30D	Certain Defendants’ Further Post-Hearing Brief in Opposition to Class Certification (from Anderson Memorial South Carolina State Court case)
AMH-31	Plaintiff W.R. Grace & Co.-Conn.’s Trial Brief (from Anderson Memorial South Carolina State Court case)
AMH-32A	Anderson Memorial Hospital vs. W. R. Grace and Others Transcript of Record Volume 1 (from Anderson Memorial South Carolina State Court case)

<u>Ex. No.</u>	<u>Description</u>
AMH-32B	Anderson Memorial Hospital vs. W. R. Grace and Others Transcript of Record Volume 2 (from Anderson Memorial South Carolina State Court case)
AMH-32C	Order Regarding Estimation of Asbestos Property Damage Claims for Voting Purposes (from Celotex Bankruptcy case)
AMH-32D	Graph re: summary of Speights & Runyan Asbestos Property Damage Results for Clients
AMH-32E	Grace Asbestos Products Sold in South Carolina
AMH-32F	Zonolite Monthly Billing Register
AMH-33	Index to US Trustee Frank Perch's File relating to the formation of the Asbestos Property Damage Committee
AMH-34A	Motion of Debtors and Debtors in Possession for an Order (A) Establishing Bar Date for filing Proofs of Claim on Account Asbestos-Related Damage to Property located in the United States and Canada; (B) Approving Proposed Proof of Claim form for Such Asbestos-Related Property Damage Claims; and (C) Approving Scope and Manner of Notice of Bar Date for Asbestos-Related Property Damage Claims (from Federal Mogul Bankruptcy case)
AMH-34B	Order (A) Establishing Bar Date for filing Proofs of Claim on Account Asbestos-Related Damage to Property located in the United States and Canada; (B) Approving Proposed Proof of Claim form for Such Asbestos-Related Property Damage Claims; and (C) Approving Scope and Manner of Notice of Bar Date for Asbestos-Related Property Damage Claims (from Federal Mogul Bankruptcy case)
AMH-36A	Notice of Motion with attached Amended Motion of Debtor and Debtor in Possession for an Order (i) Fixing a Proof of Claim Bar Date, and (ii) Approving the Bar Date Notice and Procedures (from U.S. Mineral Bankruptcy case)
AMH-36B	Order (i) Fixing A Proof of Claim Bar Date; and (ii) Approving The Bar Date Notice and Procedures (from U.S. Mineral Bankruptcy case)
AMH-37	Joint Motion of the Legal Representative and the Trust Advisory Committee to Intervene in Adversary Proceeding No. 02-521 (from Celotex Bankruptcy case)
AMH-39	Affidavit of Gibson Solomons
AMH-40	Order on Asbestos Settlement Trust's Motion Seeking Instructions Regarding Payment of Fifty-Two Asbestos Property Damage Claims Submitted by Anderson Memorial Hospital (from Celotex Bankruptcy case)
AMH-41	Memo from James Restivo, Jr. to Dan Speights re: W.R. Grace – Confirmation Hearing
AMH-42	Fax from Marc Wolinsky (Wachtell, Lipton, Rosen & Katz) to Jeffrey Posner enclosing presentation re: W.R. Grace BI and PD Cost Estimates: 1995 to 2039 prepared by KPMG Resource Planning Consultants

<b><u>Ex. No.</u></b>	<b><u>Description</u></b>
AMH-44	Invoice re: Bags Zonolite MK Sold to Stars Machine Co.
AMH-45	Invoice re: Bags Zonolite MK Sold to Columbia Plastering Co. and shipped to Landmark job
AMH-46	Invoice re: Bags Zonolite MK Sold to Ranger Construction Co. and shipped to St. Francis Hospital in Greenville, S.C.
AMH-47	Invoice re: 50# Bags Zonolite K MK Sold to Columbia Plastering Co. and shipped to S. Carolina Nat'l Bank
AMH-48	Invoice re: Bags Zonolite MK Sold to C.W. Kirkland Plastering Co. and shipped to Roper Hospital
AMH-49	Invoice re: Bags Zonolite MK Sold to Bank of America Corp. and shipped to First Federal Savings & Loan
AMH-50	Email from Richard Finke to Dan Speights attaching Stipulation of the Debtors and Speights & Runyan Concerning the Treatment of Certain Asbestos Property Damage Claims Filed by Speights & Runyan
AMH-51	Email from Dan Speights to Richard Finke attaching revised Stipulation re: claims being put on the shelf
AMH-52	Email from Dan Speights to Richard Finke re: Grace – "I just want to confirm that the ball is in your count."
AMH-53	Pages from Debtors' Memorandum in Support of Motion for Entry of Case Management Order, Motion to Establish Bar Date, Motion to Approve Claim Forms, and Motion to Approve Notice Program re: Traditional Asbestos Property Damage Claims
AMH-54	Estimation of the Number and Value of Pending and Future Asbestos-Related Injury Claims: WR Grace – Supplemental Report
AMH-56H	Presentation re: W.R. Grace BI and PD Future Cost Estimates
AMH-58	W.R. Grace & Co., et al Case No. 01-1139 (JFK) Term Sheet for Resolution of U.S. Zonolite Attic Insulation Claims
AMH-59	Pages from Debtors' Disclosure Statement for the First Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code of W.R. Grace & Co., et al. with attached Notice to Holders of Claims and/or Equity Interest and General Disclaimers with Respect to This Disclosure Statement
AMH-60	Draft Page from Debtors' Disclosure Statement for the First Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code of W.R. Grace & Co., et al.
AMH-61	Email from Dan Speights to <a href="mailto:ewetbrook@rpwb.com">ewetbrook@rpwb.com</a> re: Grace ZAI Claim
AMH-62	Pages from Debtors' Disclosure Statement re: US ZAI PD Claims
AMH-63	Dr. Rourke Letter

**Dated:** April 1, 2011

Respectfully submitted,



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